

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINTH LEGISLATURE

AT THE

SECOND REGULAR SESSION

January 2, 1980 to April 3, 1980

AND AT THE

THIRD SPECIAL SESSION

May 22, 1980

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PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND NINTH LEGISLATURE
January 2, 1980 to April 3, 1980

Sec. 5. 10 MRSA § 1416, sub-§ 3, first sentence, as enacted by PL 1979, c. 503, § 2, is amended to read:

The owner of a building subject to this chapter shall notify the director according to the procedure established in section 1417 1415-A at least 14 days before the building is ready for inspection and shall certify that the building has been constructed according to the standards under this chapter.

Sec. 6. 10 MRSA § 1417 as enacted by PL 1979, c. 503, § 2, is repealed.

Sec. 7. 10 MRSA § 1418, sub-§ 3, first sentence, as enacted by PL 1979, c. 503, § 2, is amended to read:

Municipalities may not collect fees in excess of the fees established under section 1417 1415-A.

Sec. 8. PL 1979, c. 503, § 4, is repealed.

Effective July 3, 1980

CHAPTER 677

H. P. 1911 — L. D. 1979

AN ACT to Clarify the Law Concerning Abuse Between Family or Household Members.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 15 MRSA c. 12 is enacted to read:

CHAPTER 12

PROTECTIVE ORDERS

§ 301. Protective orders in crimes between family members

1. Definition. For purposes of this section, "family or household members" means spouses or former spouses, individuals presently or formerly living as spouses or other adult household members related by consanguinity or affinity. Holding oneself out to be a spouse shall not be necessary to constitute "living as spouses."

2. Grounds for order. The court may issue a protective order if:

A. A person is charged with or convicted of a violation of Title 17-A, sections 201 to 204, 207 to 211, 252, 253, 301 to 303, 506-A or 556;

- B. The offender and the victim are family or household members; and
 - C. The court finds that there is a likelihood that the offender may injure the health or safety of the victim in the future.
3. Scope of order. A protective order may be a condition of release. It may require the offender:
- A. To stay away from the home, school, business or place of employment of the victim;
 - B. Not to visit, or to visit only at certain times or under certain conditions, a child residing with the victim; or
 - C. Not to do specific acts which the court finds may harass, torment or threaten the victim.
4. Issuance of order. The clerk shall issue, without fee, a copy of a protective order, amendment or revocation to the offender, the victim and, as the court directs, to the law enforcement agencies most likely to enforce it.
5. Appeal. A court decision may be appealed as provided by the Maine Rules of Civil Procedure.
6. Penalty. Violation of a protective order, when the person has prior actual notice of the order, is a Class D crime.
7. Repeal. This chapter is repealed on November 1, 1983.

Sec. 2. 17-A MRSA § 15, sub-§ 1, ¶ A, sub-¶ (5-A), as enacted by PL 1979, c. 578, section 1, is amended to read:

(5-A) Assault, **criminal threatening, terrorizing or reckless conduct**, if the officer reasonably believes that the person and the victim are ~~members of the same family or household~~ **family or household members**, as defined in section ~~1331~~ **Title 15, section 301. This subparagraph is repealed on November 1, 1983;**

Sec. 3. 17-A, c. 54-A, as enacted by PL 1979, c. 578, section 2, is repealed.

Sec. 4. 19 MRSA § 762, sub-§ 1, ¶¶ A and B, as enacted by PL 1979, c. 578, § 5, is amended to read:

- A. Attempting to cause or ~~recklessly~~ causing bodily injury or offensive physical contact; or
- B. Attempting to place or ~~knowingly~~ placing another in fear of imminent bodily injury.

Sec. 5. 19 MRSA § 762, sub-§ 4, as enacted by PL 1979, c. 578, § 5, is repealed and the following enacted in its place:

4. **Family or household members.** “Family or household members” means spouses or former spouses, individuals presently or formerly living as spouses or other adult household members related by consanguinity or affinity. Holding oneself out to be a spouse shall not be necessary to constitute “living as spouses.”

Sec. 6. 19 MRSA § 763, as enacted by PL 1979, c. 578, § 5, is repealed and the following enacted in its place:

§ 763. **Filing of complaint**

Proceedings under this chapter shall be filed, heard and determined in the District Court or Superior Court of the division or county in which either the plaintiff or the defendant resides. If the plaintiff has left his residence to avoid abuse, he may bring an action in the division or county of his previous residence or of his new residence.

Sec. 7. 19 MRSA § 763-A is enacted to read:

§ 763-A. **Application of other acts**

The provisions and limitations of the Uniform Child Custody Jurisdiction Act shall not apply to a proceeding under this chapter unless it is joined with another proceeding under section 768, subsection 2.

Sec. 8. 19 MRSA § 764, as enacted by PL 1979, c. 578, § 5, is amended to read:

§ 764. **Commencement of proceeding**

1. **Filing.** Any adult who has been abused by a family or household member may seek relief by filing a ~~sworn petition in an appropriate court~~ **complaint** alleging that abuse.

2. **Assistance.** The court shall provide **separate forms with a summons** and clerical assistance to assist either party in completing and filing of a ~~petition~~ **complaint** or other necessary documents. This assistance shall not include legal advice or assistance in drafting legal documents.

3. **Fees.** No ~~filing~~ fee shall be charged for ~~a petition forms or filing a~~ **complaint**. A plaintiff may apply for leave to proceed in forma pauperis.

Sec. 9. 19 MRSA § 765, sub-§ 1, as enacted by PL 1979, c. 578, § 5, is amended to read:

1. **Full hearing.** Within 21 days of the filing of a ~~petition~~ **complaint**, a hearing shall be held at which the plaintiff shall prove the allegation of abuse by a preponderance of the evidence.

Sec. 10. 19 MRSA § 765, sub-§ 3, as enacted by PL 1979, c. 578, § 5, is amended to read:

3. **Emergency relief.** Emergency relief shall be available as follows.

A. When the court is closed and no other provision can be made for the shelter of an abused family or household member, a ~~petition~~ **complaint** may be filed before an appropriate District Court Judge or Superior Court Judge. Upon a showing of good cause, as defined in subsection 2, the court may enter any temporary orders authorized under subsection 4 as it deems necessary to protect the plaintiff from abuse.

B. An order shall be immediately certified to the ~~appropriate clerk of the~~ District Court or Superior Court **having venue**. This certification to the court shall have the effect of commencing proceedings and invoking the other provisions of this chapter.

C. An order shall remain in effect pending a hearing pursuant to subsection 1.

Sec. 11. 19 MRSA § 765, sub-§ 4-A is enacted to read:

4-A. **Service of order.** If the court issues a temporary order or orders emergency or interim relief, it shall order a law enforcement agency to personally serve the order on the defendant. To protect the plaintiff, the court may order the omission or deletion of his address from any papers served on the defendant.

Sec. 12. 19 MRSA § 766, sub-§ 1, as enacted by PL 1979, c. 578, § 5, is amended to read:

1. **Protection order; consent agreement.** The court, after a hearing and upon finding that the defendant has committed the abuses alleged, may grant any protective order or approve any consent agreement to bring about a cessation of abuse, which may include:

Sec. 13. 19 MRSA § 766-A is enacted to read:

§ 766-A. **Confidentiality of plaintiff's address**

To protect the plaintiff, the court may order the omission or deletion of his address from any papers available to the public.

Sec. 14. 19 MRSA § 767, as enacted by PL 1979, c. 578, § 5, is repealed and the following enacted in its place:

§ 767. **Notification**

The clerk shall issue, without fee, a copy of an order, agreement, amendment or revocation to the plaintiff, the defendant and, as the court directs, to the law enforcement agencies most likely to enforce it.

Sec. 15. 19 MRSA § 768, as enacted by PL 1979, c. 578, § 5, is amended to read:

§ 768. Procedure

1. **Civil rules apply.** Unless otherwise indicated in this chapter, all proceedings shall be in accordance with the Maine Rules of Civil Procedure. **Appeals may be taken as provided by the Maine Rules of Civil Procedure. Appeals may be only for error of law or abuse of discretion.**

2. **Proceedings independent.** All proceedings ~~shall~~ **may** be independent of ~~any, or joined with,~~ a proceeding for divorce, dissolution of marriage, legal separation or separate maintenance ~~and.~~ **A proceeding under this chapter shall be in addition to any other available civil or criminal remedies.**

3. **Self defense.** **The right to relief under this chapter shall not be affected by the plaintiff's use of reasonable force in response to abuse by the defendant.**

4. **Intoxication.** **Voluntary intoxication shall not be a defense to an action under this chapter.**

Sec. 16. 19 MRSA § 769, as enacted by PL 1979, c. 578, § 5, is amended to read:

§ 769. Violation

1. **Crime committed.** Violation of a **temporary, emergency, interim or final** protective order or a court approved consent agreement, when the defendant has prior actual notice of the order or agreement, ~~shall be~~ **is** a Class D crime, except when the only provision that is violated concerns relief authorized under section 766, subsection 1, paragraphs F to ~~J~~ **K**. Violation of these paragraphs shall be treated as contempt and punished in accordance with law.

2. **Warrantless arrest.** Notwithstanding any statutory provision to the contrary, an arrest for **criminal** violation of an order **or consent agreement** may be without warrant upon probable cause whether or not the violation is committed in the presence of the ~~police~~ **law enforcement** officer. The ~~police~~ **law enforcement** officer may verify, if necessary, the existence of a protective order by telephone or radio communication with ~~the appropriate~~ **a law enforcement agency with knowledge of the order.**

Sec. 17. 19 MRSA § 771 is enacted to read:

§ 771. Repeal

This chapter, as amended, is repealed on November 1, 1983.

Sec. 18. PL 1979, c. 578, § 7 is amended to read:

Sec. 7. **Sunset provision.** This Act is repealed on ~~June 30, 1982~~ November 1, 1983.

Effective July 3, 1980

CHAPTER 678
H. P. 1953 — L. D. 2001

AN ACT to Amend the Charitable Solicitations Act.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 9 MRSA § 5003, sub-§§ 5-B, 5-C and 5-D are enacted to read:

5-B. **Fund raising.** “Fund raising” means a solicitation to the public for funds, except those solicitations which are made as an integral part of the presentation of program services.

5-C. **Hospital.** “Hospital” means an institution which is engaged primarily in providing inpatient medical and psychiatric diagnostic and therapeutic services in the care and treatment of injured, disabled, sick or mentally ill persons who are under the supervision of a physician.

5-D. **Management.** “Management” means the overall direction of the organization, general record keeping, business management, budgeting, general board activities and related management functions.

Sec. 2. 9 MRSA § 5003, sub-§ 10-A is enacted to read:

10-A. **Program services.** “Program services” means those activities directly related to the stated charitable purposes of the charitable organization. “Program services” does not mean activities related to fund raising or management.

Sec. 3. 9 MRSA § 5004, sub-§ 3, ¶G, as enacted by PL 1977, c. 488, § 1, is amended to read:

G. The name and address of any professional fund-raising counsel, professional solicitor or commercial co-venturer who acts or will act on behalf of the charitable organization **and terms of remuneration of the counsel, solicitor or co-venturer:**

Sec. 4. 9 MRSA § 5004, sub-§ 3, ¶I, as enacted by PL 1977, c. 488, § 1, is amended to read: